REMARKS

This application has been carefully reviewed in view of the above-referenced Office Action, and reconsideration is requested in view of the following remarks. A minor error was corrected in claim 19 in which the "means for sending" was originally interjected between functions carried out by the processor. This has been clarified.

Regarding the Claim Rejections under 35 U.S.C. §102(e)

All claims have been rejected under 35 U.S.C. §102(e) based upon the Candelore reference of record. As noted by the Examiner, both the present application and the Candelore patent are commonly owned. Mr. Candelore and the present inventors have worked together on several inventions related to selective encryption since at least as early as 2002.

Applicant respectfully traverses the rejections as follows. An overview of both Candelore and the present invention may be instructive in order to understand the distinctions. In accordance with embodiments consistent with the present invention as claimed (to paraphrase without intent of imposing limitations), content is selected and sorted into portions to be encrypted and portions to remain unencrypted. Those portions are then stored until an order for the content as VOD has been received. Upon receipt of the order, the type of decryption used by the station that ordered the content is ascertained. Only after making this determination is the portion selected for encryption bulk encrypted and then buffered so that it can be assembled with the unencrypted content to form the selectively encrypted content that will be sent to the station that ordered the content.

Thus, there is an implicit ordering of operations in the claims as submitted that is followed so that the content is only encrypted after the encrypting device learns what type of encryption is compatible with the station that will do the decryption. While this order is believed clearly implicit in the claims as submitted, the claims have been amended to clarify this order by making explicit the need for determining the type of decryption capabilities of the receiving station prior to doing the actual encryption.

The Candelore reference, by contrast, takes a substantially different but equally valid approach to a similar problem. However, in Candelore, the content is pre-encrypted using

multiple selective encryption. That is, portions of the content are duplicated and the duplicate parts are encrypted under two (or more) encryption methods that are compatible with two or more receiving stations. Once an order is received, a determination of the decryption capabilities of the receiving station is made, however, this information is used to strip out the unneeded copy of the encrypted content (i.e., the one that is not compatible with the receiving station) in order to create a selectively singly encrypted version of the content. This process is described in the passages from col. 5, line 7 through col. 6, line 49 in conjunction with the process shown in Fig. 2.

Thus, while both Candelore and Pedlow determine the capabilities of the receiving station and both result in a single selectively encrypted version of the output, Candelore does this by stripping out unneeded content that is encrypted under incompatible encryption, while Pedlow does no encryption until after the capabilities of the receiving station are determined. Moreover, Pedlow uses bulk encryption of the selected portions of the content. There is no teaching or suggestion of such in Candelore, hence there can be no anticipation.

Hence, in the claims are believed to clearly distinguish over the cited reference. Anticipation can only be established if all claim elements are present with the interrelationship among claim features as claimed. In this case, encryption only occurs after determination of the ordering station's capabilities, whereas, Candelore pre-encrypts the content. This has been emphasized by the amendment. Reconsideration and allowance are respectfully requested.

It is noted that an obviousness rejection under 35 U.S.C. §103 based upon Candelore of record would be improper, since the present application falls within the exception of 35 U.S.C. §103(c)(1). The Examiner has already correctly ascertained and noted that the present application and U.S. Patent No. 7,039,938 have a common assignee.

Concluding Remarks

The undersigned additionally notes that many other distinctions exist between the cited art and the claims. However, in view of the clear distinctions pointed out above, further discussion is believed to be unnecessary at this time. Failure to address each point raised in the

Office Action should accordingly not be viewed as accession to the Examiner's position or an admission of any sort.

No amendment made herein was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim unless an argument has been made herein that such amendment has been made to distinguish over a particular reference or combination of references.

Interview Request

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. If further matters remain to be resolved, the undersigned respectfully requests the courtesy of an interview. The undersigned can be reached at the telephone number below.

Respectfully submitted,

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Dated: 11/9/06

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